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SERVICE DATE – NOVEMBER 9, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 420X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY—ABANDONMENT EXEMPTION—IN MERCER COUNTY, ND

Decided: November 8, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon and discontinue service over a 3.36-mile line of railroad between milepost 77.14 near Antelope Valley Station and milepost 80.50 near Zap, in Mercer County, ND. Notice of the exemption was served and published in the Federal Register on June 4, 2004 (69 FR 31656).

By decision served July 2, 2004, the exemption was made subject to the condition that, prior to beginning salvage activities, BNSF submit site forms for the bridges and any historical sites and the final cultural resources report to the State Historical Society of North Dakota (SHPO). By letter dated October 4, 2004, BNSF has requested that the historic preservation be removed. In support of its request, BNSF attached a letter, which included an indication by the SHPO that BNSF prepared and submitted the Class I and Class II Cultural Resources Inventories, which the SHPO found acceptable, as well as an indication by the SHPO that it would concur with a determination that no historic properties will be affected by the abandonment. Therefore, SEA recommends that the section 106

condition imposed in the July 2, 2004 decision be removed.¹ Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the July 2, 2004 decision is removed.

¹ In that decision, the city of Zap was authorized to negotiate an interim trail use/rail banking agreement with BNSF, pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The negotiation period is scheduled to expire on January 2, 2005. The decision also imposed environmental conditions that required BNSF to: (1) during salvage activities, revegetate areas impacted by salvage activities with species native to the areas; (2) during salvage activities, follow Best Management Practices to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body; (3) ensure that salvage activities associated with the proposed abandonment do not impact safety by affecting any 100-year floodplains during salvage activities and (a) leave the roadbed along with drainage culverts and structures in place, and (b) if the wood timber bridge spanning Spring Creek within the City is removed, (i) remove components to the ground level above the water line and to the stream bed below the water line, and (ii) leave no bridge components in place that may catch ice or debris, or that may in any manner restrict the natural flow of the stream; and (4) provide the National Geodetic Survey (NGS) with 90 days' notice prior to disturbing or destroying any identified geodetic station markers, and consult with NGS to plan their relocation. Additionally, by decision served August 3, 2004, the proceeding was reopened and the exemption was made subject to the condition requiring that BNSF shall consult with the North Dakota Department of Health Environmental Health, Environmental Health Section, regarding any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during salvage. Those conditions remain in effect.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary